



VIA FAX – (601) 352-7757
and REGULAR MAIL

Mr. Rusty Fortenberry
McGlinchey Stafford PLLC
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July 5, 2005

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Re: *Olivia Y. et al. v. Barbour et al.*

Dear Mr. Fortenberry:

Pursuant to our conversation of June 28, 2005, my letter of same date, and yours of July 1, 2005, I enclose a proposed Joint Motion For An Amended Case Management Order. If it meets with your approval please endorse and forward to our local co-counsel Ms. McAnally for filing.

We are aware that should the Court agree to the proposed extensions it may require adjustment of the pretrial and trial dates as well, but it seems the better practice to leave this to the Court's discretion and calendar.

Please let me know if you have any questions as to the above.

Sincerely yours,

Eric Thompson /gk

Eric Thompson
Counsel for Plaintiffs

Encl.

cc: Wayne Drinkwater & Melody McAnally, Bradley Arant
Stephen Leech, Esq.
John Lang, Loeb & Loeb



**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

OLIVIA Y., et al.

PLAINTIFFS

v.

CIVIL ACTION NO. 3:04CV251LN

HALEY BARBOUR, as Governor of the State of Mississippi, et al.

DEFENDANTS

JOINT MOTION FOR AN AMENDED CASE MANAGEMENT ORDER

The parties respectfully move this Court for an eight-week extension of the expert deadlines in this matter and for related amendments to the discovery scheduling deadlines as follow:

Discovery: All fact discovery shall be completed by October 13, 2005; all expert discovery shall be completed by December 8, 2005.

Experts: The parties experts shall be designated by the following dates:

- a. Plaintiffs: October 13, 2005
- b. Defendants: November 14, 2005

Trial Motions: All motions other than motions in limine shall be filed by: December 22, 2005.

In support, the parties state that discovery in this complex class action litigation has been delayed, requiring an extension of the current expert deadlines. Principally, Plaintiffs' access to a representative sample of class members' DHS case records for an expert case record review pursuant to Plaintiffs' Second Request for Production of Documents was objected to by Defendants until this Court certified the class of all children in DHS custody on March 11, 2005. The parties' ultimately successful attempts to agree as to Defendants' provision of the necessary

class information for sample selection and the logistical arrangements for on site review of the DHS records resulted in Plaintiffs' expert case record review not beginning until June 27, 2005. This expert review of a sample of approximately 300 DHS case records will need to proceed in various DHS County Offices across the State and will require approximately 10 weeks to collect the required information. Additional time will also be necessary once the expert review of files is completed for data analysis and for the production of an expert report consistent with the requirements of Fed. R. Civ. P. 26(a)(2)(B).

Further, Plaintiffs' Motion to Compel as to Plaintiffs' First Request for Production of Documents is pending, and related responsive documents needed for Plaintiffs' experts' review and for depositions have yet to be produced.

Wherefore, the parties respectfully request this Court to amend the Case Management Order as requested.

RESPECTFULLY SUBMITTED, this the ____ day of July, 2004.

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DEFENDANTS' COUNSEL

PLAINTIFFS' COUNSEL

CERTIFICATE OF SERVICE

I hereby certify that on July __, 2005, I electronically filed the foregoing and all enclosures with the Clerk of the Court using the ECF system, which sent notification of such filing to the following:

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July 6, 2005

Eric E. Thompson, Esquire
 Children's Rights, Inc.
 404 Park Avenue South
 New York, New York 10016

RE: *Johnson, et al. vs. Barbour, et al.*; In the United States District Court for
 the Southern District of Mississippi, Jackson Division; Civil Action No.
 3:04cv251LN

Dear Eric:

This letter is in response to your letter of July 5, 2005. We are not in agreement with separate discovery completion dates for facts and experts. Additionally, because of the complexity of the issues we can not agree to your proposed Motion deadline. If the CMO deadlines are extended, the pretrial and trial dates will need to be rescheduled.

Since we have been unable to agree on a Joint Motion, I have proceeded with filing a Motion to Amend Case Management Order and for Continuance of Trial Date. A copy of that motion is attached.

Sincerely,

McGlinchey Stafford, PLLC

Rusty
 Rusty Fortenberry

DLF/mmik

enclosure

cc: Melody McAnally

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